

APPEAL NO. 022458
FILED NOVEMBER 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 16, 2002. The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, includes injuries and/or diagnosis of neurogenic bladder, bowel and bladder incontinence, erectile dysfunction, depression, and degenerative disc disease including herniated discs in the lumbar spine but did not include injuries and/or diagnosis of hypertension or a cervical injury. The appellant (carrier) appeals the determination that the compensable injury includes neurogenic bladder, bowel and bladder incontinence, erectile dysfunction, depression, and lumbar disc disease, arguing that this determination is not supported by credible evidence. The appeal file did not contain a response from the respondent (claimant). The determination that the compensable injury of _____, does not include injuries and/or diagnosis of hypertension or a cervical injury was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The issue of whether the compensable injury included injuries and/or diagnosis of neurogenic bladder, bowel and bladder incontinence, erectile dysfunction, depression, and degenerative disc disease including herniated discs in the lumbar spine was a question of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986).

The carrier contends that the appealed determination is not supported by the credible evidence. In so arguing, the carrier asserts that the claimant's testimony as well as the medical records show the conditions at issue existed prior to the injury and that the claimant produced no competent evidence that there was any new damage or compensable aggravation to the claimant's diagnoses of neurogenic bladder, bowel and bladder incontinence, erectile dysfunction, depression and degenerative disc disease including herniated discs in the lumbar spine. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant on the appealed issue, and he was acting within his province as the fact finder in so doing. Our review of the record does not demonstrate that the challenged determinations are so contrary to the great

weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse those determinations on appeal. Cain, supra; Pool, supra. This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
T.P.C.I.G.A
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge